

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

26573

FILE: B-212239

DATE: November 29, 1983

MATTER OF: Electronics Technician Second Class
Michael S. Beam, USNR

DIGEST:

A naval reservist sustained an injury outside the Reserve Center building following dismissal from an inactive-duty training drill. He is not eligible to receive benefits (medical care, pay and allowances, etc.) under 10 U.S.C. § 6148 and 37 U.S.C. § 201(i) (1976) since under those statutes the injury must have been incurred while the member was employed in inactive-duty training which extends only from the time the reservist is first mustered in until dismissal from that day's activities.

The question in this case is whether Electronics Technician Second Class Michael S. Beam, USNR-R, is entitled to the benefits of 10 U.S.C. § 6148 and 37 U.S.C. § 204(i) (1976), including pay and allowances during the period of recovery under the circumstances in which he was injured while leaving an inactive-duty training drill.¹ We find that he is not entitled to those benefits because his injury occurred after the completion of the drill and after his release from duty.

FACTS

Mr. Beam completed a weekend of inactive-duty training at the Naval and Marine Corps Reserve Center in Dayton, Ohio, on October 3, 1982. After the unit was mustered and dismissed, he left the "drill deck." There were two steps down into the parking lot of the Reserve Center. Mr. Beam slipped on these steps injuring his right knee. He proceeded on to his home, but later that evening went for emergency treatment at a local civilian hospital where the knee injury was diagnosed. Corrective surgery was performed by

¹ This matter was submitted by the Assistant Secretary of the Navy (Manpower and Reserve Affairs) requesting an advance decision. The request has been assigned No. SS-N-1419 by the Department of Defense Military Pay and Allowance Committee.

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civilian doctors that same week. Mr. Beam's civilian employer paid all medical expenses, but he now seeks pay and retirement points for the time from the date of the injury to the date when he was returned to a duty status.

Mr. Beam states that part of the October 3 drill was a physical fitness test which included a 1-1/2 mile run. He indicates that he feels that his knee injury resulted from the strain of that test.

Discussion and Conclusion

The applicable statutes, 10 U.S.C. § 6148(a) and 37 U.S.C. § 201(i) (1976), stipulate that a member of the Naval Reserve who is ordered to perform inactive-duty training and is disabled in the line of duty from injury "while so employed" is entitled to specific disability benefits.² However, Congress did not define the term "while so employed" which is the basis for controversy here.

The Court of Claims in Meister v. United States, 162 Ct. Cl. 667; 319 F.2d 875 (1963), ruled that a naval reservist who sustained an injury while approaching a reserve center immediately prior to beginning inactive-duty training was "within the scope of his duties" and, therefore, entitled to coverage under section 6148. However, the court stated that they were not attempting to lay down a rule of general application in that case. See also Judge Whitaker's dissenting opinion in the Meister case. Following Meister we recognized the limited application of the court's decision and determined that it should not be used as precedent for favorable administrative action in any similar case. Our rule remained that when a reservist is ordered to inactive-duty training, the period of training extends from

² We note that 10 U.S.C. § 1074a and 37 U.S.C. § 204(j), added by section 1012 of the Department of Defense Authorization Act, 1984, Pub. Law 98-94, Sept. 24, 1983, 97 Stat. 664-665, now authorize the services to provide medical and dental care, subsistence during hospitalization, and travel allowances for necessary travel incident to receiving medical care, for injuries incurred or aggravated while a member is traveling directly to or from the place at which he performs inactive-duty training. These new provisions do not authorize basic pay for the period of recuperation and, in any event, they are not applicable in this case because they only apply to injuries incurred or aggravated on or after the date of enactment of Pub. Law 98-94, that is, September 24, 1983.

the time the person is first mustered in until the completion of his scheduled inactive-duty training on that day. 43 Comp. Gen. 412, 415 (1963); and Matter of King, B-189360, December 30, 1977.

We have not allowed claims where the injury occurred after completion of dismissal at the end of inactive-duty training. A close case involved a naval reservist who, while participating in the dismissal ceremony by saluting his commanding officer and turning to exit the drill deck, was injured when a gust of wind blew the door back cutting his face prior to his leaving the building. The claimant's injuries were deemed to have occurred during the one continuous transaction in terminating his participation in the training drill and, thus, while he was still employed in the training drill. B-148324, July 16, 1965.

In the present case, Mr. Beam apparently had completed the dismissal ceremony, was outside the Reserve Center building, and was proceeding down the steps to the parking lot when the injury occurred. While Mr. Beam feels that the injury resulted from the physical activity during the training, the Navy has not made such a determination. Instead, the record we have indicates that the injury occurred outside the drill center after completion of the drill. In these circumstances we must conclude that the injury was not incurred while Mr. Beam was performing inactive-duty training.

Accordingly, Mr. Beam is not entitled to the benefits provided under 10 U.S.C. § 6148 and 37 U.S.C. § 204(i) (1976).

Milton J. Aroian
for Comptroller General
of the United States